

# EXHIBIT A-5

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February 8, 2024

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Re: MDL 3084 – Letter following 2/7/2024 Meet and Confer re: PTO5

Counsel,

Thank you for the productive meet and confer yesterday to discuss Uber’s production of documents based on Pretrial Order No. 5 (“PTO5”), ¶ 6(B) which states “Uber is ordered to produce all documents Uber has previously produced to legislative, regulatory, or enforcement entities in connection with government investigations or inquiries within the United States of Uber with respect to sexual assault, including attempted assaults (except those investigations or inquiries conducted pursuant to grand jury subpoena), including all those by the California Public Utilities Department, and any associated privilege logs.” We write to discuss and follow-up on a number of issues you raised, and that we raised with you, during the call.

First, as we informed you during yesterday’s call, Uber endeavored to complete its production of documents pursuant to ¶ 6(B) by January 31, 2024, but its search efforts still continue. Uber has determined that there are additional responsive documents to produce. Accordingly, today and into next week, you will continue to receive from Uber additional rolling productions of documents produced to the Massachusetts Department of Public Utilities and to the California Public Utilities Commission. We expect additional rolling productions will follow thereafter with respect to documents produced to the Iowa Department of Transportation.

We also wish to continue to engage with you to make sure the parties have a productive dialogue about the scope of what is responsive to the Court’s requirement. You mentioned on our call that Plaintiffs received a number of “FOIA documents,” which we understand to refer to documents provided by governmental entities to you pursuant to public records requests. You refused to identify what you requested (*i.e.*, you refused to explain what the request is or whether it aligns with the Court’s PTO5, ¶ 6(B)) and what those “FOIA documents” are. We reiterate our request that you identify that information.

In any event, your reference to “FOIA documents” suggests that you may be interpreting ¶ 6(B) to require production of documents produced by Uber to governmental entities based on regular, ongoing statutory or administrative reporting requirements. But that is not what PTO5 provides; it requires production of documents produced by Uber to “legislative, regulatory, or enforcement entities in connection with government investigations or inquiries within the United States of Uber with respect to sexual assault . . . .” Documents provided to regulators pursuant to legislative or regulatory reporting requirements, without an underlying “government investigation or inquiry of Uber,” are not within the scope of PTO5. We can continue to confer with you about this if you have a different understanding.

You also discussed on our call that you expected Uber would produce documents that had been provided to the San Francisco and Los Angeles District Attorneys based on investigations or inquiries of Uber that they conducted in or around 2014-2016. A 2014 lawsuit brought by the District Attorneys of San Francisco and Los Angeles asserted

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claims regarding Uber's representations to customers, Uber's calculation of fares, Uber's operations at California airports, and fees charged to customers. *People of the State of California v. Uber Technologies, Inc., et al.*, No. CGC-14-543120 (San Fran Sup. Ct.), Amended Complaint (August 8, 2015), ¶ 10. Uber does not view this lawsuit as falling within the scope of PTO5 ¶ 6(B). If you believe that this lawsuit is within the scope of ¶ 6(B), please explain the basis for your position so that we may discuss further.

You also mentioned on the call your belief that documents within the scope of PTO5 were provided to "other DAs" and "other governments" beyond the CPUC and the San Francisco and Los Angeles District Attorneys. We asked on the call that you identify the "other DAs" and "other governments" you are referencing, but you refused to do so. We reiterate our request that you provide that information so that we may have a further discussion with you about whether or why documents provided to such "other DAs" or "other governments" will or will not be provided based on the scope of PTO5.

You requested that Uber provide, by the end of the week, a list of the "government investigations or inquiries within the United States of Uber with respect to sexual assault, including attempted assaults (except those investigations or inquiries conducted pursuant to grand jury subpoena)" in which documents were produced by Uber. We have identified those investigations and inquiries by virtue of the production made on January 31, 2024, and the information described in this letter. If you believe there are other such investigations or inquiries, please identify them so we may have a discussion with you about them.

You also requested that Uber confirm whether it has produced to Plaintiffs the documents that Uber produced to Congress in connection with its investigation or inquiry with respect to sexual assault. Uber confirms that it has produced the documents provided to Congress in response to this inquiry.

We also wish to raise one other interpretational issue regarding the scope of ¶ 6(B). It provides that the relevant governmental investigations or inquiries of Uber are those "with respect to sexual assault, including attempted assaults." First, as to "attempted assault," we understand that to mean "attempted sexual assaults." Second, ¶ 6(B) specifically references "sexual assault," but does not reference "sexual misconduct." In an abundance of caution, Uber has construed the references to "sexual assault" in Paragraph 6(B) as also encompassing "sexual misconduct."

You also stated on yesterday's call that Plaintiffs intend to file a motion with respect to their position on these issues, should a resolution of the disputes not be reached, and that such a motion would be filed on an order shortening time. As outlined above, Uber is continuing to make prompt productions of materials, and is prepared and willing to continue meeting and conferring with Plaintiffs to further discuss these issues. Therefore, there is no impasse on which a motion could be based. In any event, if Plaintiffs proceed with filing a motion despite the lack of impasse or any issue requiring court intervention, Uber respectfully requests that Plaintiffs explain their bases for filing the motion under shortened time. Subject to receiving that explanation, Uber is prepared to consider

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agreeing to a briefing schedule that would shorten time such that the matter can be heard by Judge Cisneros on February 22, 2024, provided the Court is available for further proceedings that day. Under that briefing schedule, Uber would file its response brief by February 20, 2024, assuming Plaintiffs file their motion by February 9, 2024. There would be no reply brief.

We are available to further meet and confer to discuss these issues further, and look forward to doing so. Please send some proposed times next week when you are available.

Sincerely,

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